

UNITED STATES COURT of APPEALS
FIRST DISTRICT

Walter Scott Fox, III)
Pro-Se Petitioner) Criminal No. 2:14-cr-03-DBH
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US FIRST CIRCUIT)
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PRO-SE APPEAL

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Petitioner, Walter Scott Fox, III, a Pro-Se federal prisoner appeals the District of Maine Court's order, dated July 11, 2019 denying his motion for a Reduction in Sentence (RIS) filed under 18 USC § 3582(c)(1)(A)(i). Petitioner contends that the District Court erroneously interprets and relies on the United States Sentencing Commission's Policy Statement 1B1.13 defining "Extraordinary and Compelling" reasons for a Reduction in Sentence (RIS). Under (D) "Other Reasons; it states "as determined by the Director of the Bureau of Prisons (which the District Court agrees has been modified by the First Step Act of 2018 to allow a prisoner to appeal directly to the Court under certain circumstances that have been met by Petitioner) there exists in the defendants case an Extraordinary and Compelling reason other than, or in combination with the reasons described in Subdivision (A) thru (C). The District Court appears to interpret that when looking at (D) "Other Reasons" the reasons should be "comparable or analogous" to criteria set forth in (A) thru (C) when it is in Plain Text Language that the reasons can be other than reasons as described in (A) thru (C). The Petitioner clearly spelled out several "Extraordinary and Compelling" reasons, in his motion dated May 6, 2019 (see exhibit 1), for a 24 month Reduction in Sentence (RIS). There have been several recent cases where the courts have relied on "Other" reasons for granting Reductions in Sentence including US v Canto-Rivera Case No. H 89-204 (SD Tex 6/24/19). In fact Ohio State Law Professor Doug Berman,

noted in a recent "Sentencing Law and Policy" blog that now "Congress only formally requires a judge to find Extraordinary and Compelling reasons to warrant a reduction in sentence" and he sites US v Marks, Case No. 03-cr-6033 (WDNY Mar 14, 2019). Furthermore, Georgetown Law Professor, Shon Hopwood also published an article entitled "Prison Professors, A Second Look at a Second Chance; Seeking a Sentence Reduction under the Compassionate Release Statute" where he states "there is a viable argument for why federal district court judges can use the Compassionate Release Statute (18 USC § 3582(c)(1)(A)(i)) as amended by the First Step Act, as a second look provision to reduce a sentence for people in federal prison if Extraordinary and Compelling reasons are present".

Petitioner believes he made an Extraordinary and Compelling argument in his motion dated May 6, 2019 and requests that the U.S. Court of Appeals for the First District remand this back to the Maine District Court for resentencing.

Respectively Submitted:



Walter Scott Fox, III Pro-Se July 25, 2019